

Yakama Nation
Comments before the
Senate Indian Affairs Committee
regarding Indian energy legislation

October 21, 2009

Comments

Good afternoon, my name is Ralph Sampson, and I am the Chairman for the Yakama Nation Tribal Council, and the Chairman of the Board of Directors for Yakama Power, the Yakama Nation owned utility. Our utility has been delivering power since 2006, and serves 4 average megawatts. We are actively growing to serve the entire reservation, and are working to provide renewable energy generation to the northwest.

We support many of the ideas in the Committee's concept paper and greatly appreciate this Committee's willingness to assist tribes. We would like to see five obstacles to energy development addressed by this or other legislation.

The first is in dealing with National Environmental Policy Act implementation. The Bureau of Indian Affairs and the Yakama Nation require environmental assessments that follow NEPA, for all major projects on the Yakama Reservation. What is frustrating is that the BIA's sister federal agencies are requiring separate NEPA reviews of our Environmental Assessments. The original NEPA process takes six months to a year, only to have the various programs within the government repeat the same process, doubling the time involved. This is done at USDA under the Rural Utilities Services or RUS, at the Bonneville Power Administration, and the Department of Energy. We understand and encourage the protection of the environment, but this process places an undue burden on tribal projects. We need a process that requires these other federal agencies to participate in the original NEPA process or to simply provide comments instead of repeating the NEPA process.

Second, despite statutory language encouraging federal agencies to purchase renewable energy, especially from Indian tribes, whenever we attempt to sell our renewable energy to federal agencies operating within our Reservation, we get nowhere. This failure means our local economy was not stimulated and the federal incentive for renewable energy on our Reservation evaporated. We need a federal regulation or program with teeth to support the development of Indian renewable energy and the purchase of that power by federal agencies especially, those operating on Indian reservations. One potential solution would be to have a federal agency that acquires Indian renewable energy and delivers it to key trading hubs for use by other federal agencies.

Third, we would encourage that any legislation that is proposed and or enacted, would be supported in the budgeting process. The Energy Act of 2005, promoted the production of renewal energies by providing money in various grants and loans, but failed mainly because many of the provisions of the Act have never been funded.

Fourth, based on our experiences, tribes need statutory language that makes it clear that, when the BIA transfers title or control of a federal Indian irrigation project's small hydro turbines and related substations and local distribution lines to a tribe, language in transmission contracts between the BIA and its sister federal power marketing agencies, BPA and WAPA, cannot be used to prevent such a transfer simply because the transmission contracts failed to contemplate such unique circumstances in Indian country. Federal law makes it clear that empowering the tribes to manage their own affairs on their reservations and to pursue development of renewable energy are primary Congressional goals.

Finally, that leads to our last issue. The Yakama Nation through its tribal utility, Yakama Power, paid to examine, rebuild, and restore three hydropower turbines on the Wapato Irrigation Project, a federally owned and operated Indian irrigation project. This irrigation project benefits both the Yakama Nation and many non-Indian farmers who farm the majority of these irrigated lands. Built in the 30's and 40's, the turbines have a nameplate capacity 4.2 megawatts. The sale of the renewable energy from these turbines will provide revenues back to this federal irrigation project for project-wide repairs and maintenance. The BIA has never had the funds to repair these old turbines. This was made possible only because the Yakama's used 3.2 million dollars of its utility's money with the understanding that, if we couldn't get the money back any other way, the \$3.2 million would be repaid to our utility from the sale of the energy. But if that happens, our utility cannot expand, and this federal Indian irrigation project will not have the money from the energy sales to cover its long deferred maintenance for quite some time.

We attempted to apply for a DOE grant for the development of small scale hydro projects that would have covered this debt that the federal government owes us. But because of a technicality in the law, that the project have a FERC license, we weren't eligible. We didn't have a FERC license because this is a Department of Interior project and, thus, exempt from FERC licensing.

Any help we can get in recovering this money from the federal government would be much appreciated, whether in fixing the DOE grant requirements so that non-FERC licensed projects are eligible or any providing a one-time appropriation to the BIA to repay the money.

I appreciate this opportunity to testify and if I can answer any questions, please let me know.